

**IN THE UNITED STATES DISTRICT COURT
FOR EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

DENNIS PITMAN,

Plaintiff,

vs.

AMERISTEP CORPORATION

and

WAL MART CORPORATION

Defendants.

State Court No. 14AA-CC00018
Montgomery County Circuit Court
JURY TRIAL DEMANDED

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendants, Ameristep Corporation and Wal Mart Corporation, by filing this Notice of Removal and related papers, removes this action from the Circuit Court of Montgomery County, Missouri to the United States District Court for the Eastern District of Missouri, Northern Division pursuant to 28 U.S.C. §§ 1332(a)(1), 1441 and 1446, Fed. R. Civ. P. 81 (c) and Local Rule 81-2.03. The grounds for this removal are as follows:

Background

1. This action was commenced on or about July 31, 2013, by the filing of the following action: Dennis D. Pitman v Ameristep Corporation and Wal Mart Corporation.
2. Removal is timely pursuant to 28 U.S.C. § 1446(b). Wal Mart Corporation was served through its agent for service of process on August 8, 2014. Copies of all pleadings served upon Defendant in this action are attached hereto collectively as Exhibit A and incorporated herein by reference.

Diversity Jurisdiction Exists

3. Jurisdiction in this cause is proper in the United States District Court pursuant to the provisions of 28 U.S.C. § 1332, based on diversity of citizenship.

A. The Plaintiff

4. According to the Complaint and upon information and belief, Plaintiff, Dennis Pitman, resides in and is a citizen of Missouri. As such, for diversity purposes, Plaintiff is a citizen of Missouri.

B. The Defendants

5. Defendant, Wal-Mart Stores, Inc., is a Delaware corporation with its principal place of business in Bentonville, Arkansas, and it is a publicly held company. Defendant, Wal-Mart Stores, Inc., is not a citizen of Missouri

6. Defendant, Ameristep Corporation is a former Michigan corporation that had its principal place of business in Michigan. Defendant Ameristep is not a citizen of Missouri.

Grounds for Removal

7. This action is being removed pursuant to 28 U.S.C. § 1441 et seq. This action could have originally been brought in this Court pursuant to 28 U.S.C. § 1332.

8. This Notice of Removal is timely filed because it is submitted within 30 days of the date defendant was first served with, received a copy of, or otherwise received notice of the Summons and Complaint in this civil action. 28 U.S.C. § 1446(b).

9. Defendants consent to the removal.

10. This Court embraces the county in which the State Court action was filed; thus, this Court is the proper venue.

11. Plaintiff's Complaint has asserted a claim in an amount in excess of the jurisdictional limit of \$75,000 exclusive of interest and costs. This is a product liability case wherein Plaintiff claims the subject replacement strap was defective and unreasonably dangerous. Plaintiff claims serious injuries, including severe laceration to Plaintiff's left arm, which caused internal damage as follows: multiple muscle, soft tissues, arteries and bone within Plaintiff's left arm.

12. Plaintiff also alleges he has suffered and will continue to suffer economic loss including, but not limited to, lost wages and medical expenses.

13. Because this dispute is among citizens of different states and the amount in controversy exceeds \$75,000.00, the amount in controversy and diversity of citizenship requirements set forth in 28 U.S.C. § 1332 have been met and jurisdiction is proper with this Court.

14. Pursuant to 28 U.S.C. § 1446 (d), a Notice of Filing Notice of Removal will be filed with the Clerk of the Circuit Court of Montgomery County, Missouri and will be served upon Plaintiff. A true and correct copy of the Written Notice of Filing Notice of Removal is attached hereto as Exhibit B and incorporated herein by reference. Plaintiff is hereby notified to proceed no further in state court.

WHEREFORE, Defendants request this action be removed and request that this Court shall assume full jurisdiction over the case herein as provided by law.

Respectfully submitted this 29th day of August, 2014.

CHILDRESS AHLHEIM CARY LLC

By:/s/ SCOTT D. KEHLENBRINK

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*Attorneys for Defendants Ameristep Corporation
and Wal-Mart Corporation*

CERTIFICATE OF SERVICE

The undersigned certifies that on the 29th day of August, 2014, the foregoing was electronically filed with the Clerk of this Court using the CM/ECF system which will send notification to

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